



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION

ERIC ANTONIO SAMUEL,  
Plaintiff,

vs.

OFFICER LARRY TURNER *et al.*,  
Defendants.

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CIVIL ACTION NO. 8:04-23170-HFF-BHH

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ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE  
MAGISTRATE JUDGE AND  
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

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This case was filed as a Section 1983 action. Plaintiff, a state prisoner, is proceeding *pro se*. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendants' Motion for Summary Judgment be granted. The Report is made in accordance with 28 U.S.C. § 636 and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on March 22, 2006. Plaintiff failed to file any objections to the Report. In the absence of objections, the Court is not required to give any explanation for adopting the recommendation.<sup>1</sup> *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report to the extent that it does not contradict this Order and incorporates it herein. Therefore, it is the judgment of this Court that Defendants' Motion for Summary Judgment must be **GRANTED**.

**IT IS SO ORDERED.**

Signed this 12th day of April, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd  
HENRY F. FLOYD  
UNITED STATES DISTRICT JUDGE

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#### **NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

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<sup>1</sup>Nevertheless, the Court wishes to make clear that the fact "that there was an outstanding warrant for assault and battery with intent to kill out on [Plaintiff's] brother[,]" (Report at 7), is pertinent only to the extent that Defendants reasonably thought that Plaintiff's brother was in the car with Plaintiff at the time of Plaintiff's arrest.